

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CARMEL CURRERI

*

*

v.

*

Civil No. JFM-03-227

*

AMERIQUEST MORTGAGE CO.

*

MEMORANDUM

Carmel Curreri claims in this action that a loan he obtained from Ameriquest Mortgage Company was fraudulent. Discovery has been completed, and Ameriquest has moved for summary judgment. The motion will be granted.

I.

The loan in question made in May 2001 was in the principal amount of \$258,300.00. The proceeds of the loan were used to pay off five prior loans Curreri had made, including one in the amount of \$185,945.07 from Ameriquest.¹ The new loan was at a favorable interest rate and reduced Curreri's monthly payments. Curreri admits having applied for the loan but denies having participated in the closing. For purposes of its summary judgment motion, Ameriquest does not contest Curreri's allegation on this point. Rather, Ameriquest argues that (1) Curreri is not entitled to obtain damages for the alleged fraud because he has not ratified the May 2001 loan agreement, and (2) he is not entitled to rescission because he has not taken any actions to restore the *status quo ante*.

Both arguments are well founded. Curreri has not performed under the May 2001 loan,

¹Curreri had borrowed money, at least in part, to satisfy what he described in his deposition as "Dom Perignon tastes." He drove expensive cars, including a Porsche Boxster and an Acura RL.

having failed to make any payments on the loan since its inception. Thus, he has not ratified it and is not entitled to monetary damages for the alleged fraud. *See, e.g., Sonnenberg v. Sec. Mgmt. Corp.*, 325 Md. 117, 599 A.2d 820, 823 (1992); *Ellerin v. Fairfax Sav. Ass'n*, 78 Md. App. 92, 552 A.2d 918, 927 (1989). Nor has Curreri made any payments on the loans that were extinguished by the May 2001 loan or made any payments into an escrow account to preserve the *status quo ante*. Such an action would have been necessary to entitle him to rescission. *See, e.g., Ellerin*, 552 A.2d at 926; *Cuttler v. Sugerman, Ltd.*, 88 Md. App. 567, 596 A.2d 105, 111(1991); *Ray v. Citifinancial, Inc.*, 228 F. Supp. 2d 664, 667-68 (D. Md. 2002).

II.

Curreri has also asserted a claim that by placing unfavorable information on his credit report as the result of his failure to make payments on the May 2001 loan, Ameriquest has prevented him from obtaining gainful employment. Curreri has come forward with absolutely no evidence to substantiate the claim. During discovery he identified several employers who might have failed to hire him because of the unfavorable information in his credit report but all of them (after having been subpoenaed as part of the discovery process) has confirmed by affidavit that they never checked Curreri's credit history or relied upon it in any way in deciding not to employ him. Although Curreri continues to speculate that his bad credit report may have been the cause of him not obtaining employment, such speculation clearly is insufficient to withstand a summary judgment motion.

A separate order is being entered herewith.

Date: December 11, 2003

/s/ _____

J. Frederick Motz
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CARMEL CURRERI

*

*

v.

*

Civil No. JFM-03-227

*

AMERIQUEST MORTGAGE CO.

*

ORDER

For the reasons stated in the accompanying memorandum, it is, this 11th day of December
2003

ORDERED

1. Defendant's motion for summary judgment is granted; and
2. Judgment is entered in favor of defendant against plaintiff.

/s/
J. Frederick Motz
United States District Judge